Recent Developments On The Issue Of Apartheid In South Africa

APARTHEID ON THE AGENDA OF THE UNITED NATIONS

"If the people of South Africa are to make a peaceful transition to a true democracy in their country, they must all proceed together, with wisdom, imagination and generosity of spirit. The international community must continue to be vigilant and respond appropriately to developments as they occur."

United Nations Secretary-General Boutros Boutros-Ghali, 18 February 1992, speaking before the United Nations Special Committee against Apartheid

Apartheid is a policy of institutionalized racism practised in South Africa until recently, when major components of the legislation upholding it were repealed. It was first put on the agenda of the General Assembly in November 1946. At that time, India complained at the United Nations that South Africa had enacted legislation against South Africans of Indian origin. From then onwards, the issue of apartheid has been debated during every General Assembly session, and countless resolutions have been adopted by the Assembly in attempts to bring a peaceful end to the apartheid policy.

In approving its many resolutions, the General Assembly has variously described apartheid as "a threat to international peace and security" and "a crime against humanity". The Security Council, for its part, has reaffirmed that apartheid is a crime against the conscience and dignity of mankind. All United Nations bodies concerned with human rights, racial discrimination and decolonization—and all Member States—have also denounced apartheid.

At the same time, Members of the United Nations, in numerous meetings, seminars and conferences, and their representatives in different capacities in various bodies and organizations, have made every effort to assist South Africans in their struggle to eliminate apartheid through negotiations.

UNITED NATIONS DECLARATION AGAINST APARTHEID

On 14 December 1989, the General Assembly adopted by consensus the historic Declaration on Apartheid and its Destructive Consequences in Southern Africa. The Assembly stated its belief that a: *"conjuncture of circumstances exists, which, if there is a demonstrable readiness on the part of the South African regime to engage in negotiations genuinely and seriously, given the repeated expression of the majority of the people of South Africa of their long-standing preference to arrive at a political settlement, could create the possibility to end apartheid through negotiations".*

The Declaration outlined common objectives of the international community towards the establishment of a united, non-racial and democratic South Africa by peaceful means, and spelt out steps needed to create a climate conducive to negotiations, modalities of negotiations and principles for a new constitution.

The Declaration also contained a programme of action outlining the responsibilities of the international community. Agreement was reached that the international community would not relax existing measures aimed at encouraging the South African regime to eradicate apartheid until there was clear evidence of profound and irreversible changes, bearing in mind the Declaration's objectives.

Lastly, the Declaration requested the United Nations Secretary-General to transmit copies of the document to the South African Government and the representatives of the oppressed people of South Africa, and to prepare a report for the General Assembly by 1 July 1990 on progress made in implementation of the Declaration.

The Secretary-General, in his 1990 report on the findings of a mission he sent to South Africa to observe implementation of the Declaration, noted that the climate appropriate for negotiations had

UNITED NATIONS

not been established and that the political process towards dismantling the apartheid system was still at an early stage.

DISMANTLING APARTHEID: THE PROCESS

1990

On 2 February 1990, State President Frederik W. de Klerk of South Africa announced the lifting of the ban on the African National Congess (ANC), the Pan Africanist Congress (PAC) of Azania, the South African Communist Party and other political organizations. President de Klerk also promised to release political prisoners. On 11 February, Mr. Nelson Mandela, who had been in prison for more than 27 years, was released unconditionally. Together with the United Nations consensus Declaration, the release of Mr. Mandela and the un-banning of political organizations finally set in motion a process of negotiations.

From 2 to 4 May 1990, President de Klerk and his delegation met with ANC leaders at Groote Schuur in Cape Town. The parties adopted the Groote Schuur Minute, which dealt with the release of political prisoners and the granting of immunity for political offences to South Africans both inside and outside the country.

On 6 August 1990, the South African Government held discussions with the ANC in Pretoria. These talks resulted in the adoption of the Pretoria Minute, which made it possible for large numbers of political prisoners to be released and granted immunity.

1991

Positive steps taken by the South African Government during 1991 included repealing major legal structures of apartheid such as the Group Areas Act, the Land Acts and the Population Registration Act and partially revising the Internal Security Act. One of the main breakthroughs in South Africa is that a large number of prisoners have been released; however, there is still no agreement among the parties as to whether all political prisoners have been set free.

On 16 August 1991, the Government reached an agreement with the United Nations High Commissioner for Refugees (UNHCR) allowing political exiles to return to South Africa under UNHCR auspices. As of the end of April 1992, more than 10,000 persons had returned to South Africa from countries in Africa, Europe and the Americas.

NATIONAL PEACE ACCORD

Violence has marred the process of change in South Africa. In 1991 alone, more than one thousand deaths were reported in the province of Natal. In order to stem the killings, the Government, the ANC and the Inkatha Freedom Party (IFP) met to discuss ways of halting the violence.

On 14 September 1991, the ANC, the Inkatha Freedom Party, the Government and a number of political parties, trade unions, religious and civic organizations signed the National Peace Accord in Johannesburg. The agreement was aimed at promoting peace in violence-stricken communities and in South Africa as a whole. A Commission of Inquiry Regarding the Prevention of Public Violence and Intimidation, chaired by Justice R. J. Goldstone, was set up in terms of the accord.

CODESA

On 20 December 1991, the first plenary session of the Convention for a Democratic South Africa (CODESA) became a milestone in the process of constitutional change in South Africa. Nineteen organizations, as well as the Government, met and signed a Declaration of Intent. Five working groups were established to deal with different aspects of issues that are critical to ensuring a non-racial multi-party democracy. They were to negotiate and report to the next meeting of CODESA on the following: political participation and the role of the international community; constitutional principles and the constitution-making body and process; transitional arrangements; the future of the Transkei, Bophuthatswana, Venda and Ciskei; and a time-frame for implementation of decisions.

GENERAL ASSEMBLY ADOPTS ANOTHER CONSENSUS RESOLUTION

On 13 December 1991, the General Assembly adopted resolution 46/79A, entitled "International efforts towards the total eradication of apartheid and support for the establishment of a united, non-racial and democratic South Africa". Among other appeals, the resolution "calls upon the representatives of the people of South Africa to commence in good faith, urgently, broad-based substantive negotiations towards an agreement on the basic principles of a new constitution, taking into account the fundamental principles in the Declaration".

1992

In opening the first meeting for 1992 of the United Nations Special Committee against Apartheid, Secretary-General Boutros Boutros-Ghali said on 18 February that it was possible to envisage a new society in South Africa—a society which respected human rights; a society which did not discriminate on grounds of colour, sex, political affiliation or creed; an undivided society in which economic equality and opportunity were shared by all. After his reelection as Chairman of the Special Committee, the Nigerian Ambassador, Ibrahim Gambari, told the same meeting that amidst the persistent political violence and setbacks, the process of change, as former United Nations Secretary-General Javier Pérez de Cuéllar characterized it, "although halting, remained on course". Mr. Gambari also stated that 1991 had been "a remarkable year for South Africa".

On 17 March 1992, the South African Government held a Whites-only referendum, which Mr. Gambari said he hoped would be the last to be conducted by only one segment of the South African population on the destiny of the entire nation. Voter returns were 68 per cent in favour of President de Klerk continuing with negotiations for a new constitutional dispensation. Mr. Boutros-Ghali welcomed the referendum results as positive for democratic reform in South Africa. "The results constitute a major step forward towards the eradication of apartheid and the creation of a new, non-racial society in South Africa, based on the respect of human rights", he said.

CODESA II

On 15 and 16 May 1992, the second plenary session of CODESA, or CODESA II, convened in Johannesburg to discuss reports of the five working groups established by CODESA I. Four of the groups reached consensus; the fifth one differed, in particular, over the percentage vote required to adopt certain clauses of a new constitution. CODESA II failed to draft a blueprint for transitional structures.

Since the issues addressed by the working groups were interrelated, it was decided that, as a consequence of the disagreement in Working Group II, none of the reports would be tabled at CODESA II. In the meantime, discussion would continue to seek a way out of the impasse.

VIOLENCE AND THE SUSPENSION OF NEGOTIATIONS

Failure by CODESA II to agree on a package of proposals for the transition came as a serious disappointment to the majority of South Africans. At its national policy conference, held at the end of May 1992, the ANC adopted a new strategy of "mass action" (which would include stayaways, sit-ins, demonstrations, factory occupations and a general strike) to press for an interim government to be set up promptly and for elections for a constituent assembly. The South African Government warned that mass action would lead to an increase in violence and indicated that it would impose new security measures, if necessary, to maintain law and order.

At the same time, additional attention was focused on the issue of violence with the release of various reports, in particular the report of Amnesty International ("State of Fear") and that of the International Commission of Jurists ("Agenda for Peace"). Both were very critical of the South African Government's inability to stop the violence and stressed the role played by the security forces, as well as IFP, in this violence. The Goldstone Commission also issued its second interim report. While the Commission stated that it had not received evidence of a "third force" orchestrating the violence, it criticized the Government's failure to take

sufficiently firm steps to prevent criminal conduct by members of the security forces and to punish the perpetrators.

On the night of 17 June 1992, armed men attacked residents in the township of Boipatong, near Johannesburg, killing at least 40 men, women and children. Numerous witnesses alleged that the attackers, who apparently came from a nearby hostel, were supporters of the Inkatha Freedom Party (IFP) and were assisted by the members of the police. Following the massacre and another incident during which the police shot demostrators, the ANC National Executive Committee held an emergency meeting on 23 June 1992, at the end of which it decided to suspend bilateral talks with the Government as well as its participation in CODESA negotiations, while reaffirming its commitment to a negotiated resolution of the conflict. Accusing the Government of fomenting violence, the ANC demanded, *inter alia*, that it suspend and prosecute all members of the security forces involved in the violence and called for the setting up of an international commission of inquiry into the Boipatong massacre.

MEETING OF THE SECURITY COUNCIL

On 23 June 1992, the ANC and PAC asked the Council of Ministers of the OAU (Organization of African Unity), meeting in Dakar, to call for an urgent meeting of the UN Security Council to examine the issue of violence in South Africa. A few days later, the Council of Ministers adopted a resolution calling for the urgent convening of the Security Council. The Security Council met on 15 and 16 July 1992 to consider the "Question of South Africa". Forty-eight Member States and nine invitees from South Africa took the floor. At the end of the debate, the Council adopted resolution 765 (1992) by consensus.

The resolution condemned the escalating violence and underlined the importance of all parties cooperating in the resumption of the negotiating process as speedily as possible. It also invited the Secretary-General to appoint a Special Representative who would recommend measures to assist in bringing an effective end to the violence and in creating conditions for negotiations to resume. Mr. Cyrus Vance, subsequently appointed by the Secretary-General as his Special Representative, visited South Africa in July 1992 and held numerous discussions with all major parties.

At the end of July 1992, in spite of efforts by the South African Council of Churches and of continued discussions between major labour and business organizations, negotiations had not resumed and the ANC and its allies prepared for a major strike to underline their demands. Pressure was also increasing on the South African authorities to reform and reorganize the police after the release of a report by British experts, led by Dr. P. A. J. Waddington, on the investigation carried out into the Boipatong massacre. The report revealed a number of flaws and mistakes of both procedure and judgement and criticized the police, who it said were affected by inadequate command and control, for failing to communicate efficiently with township residents and for lacking effective intelligence and contingency planning.

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